IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 238 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

HEMAXIBEN PRAKASHBHAI BHANDARI

Appearance:

Mr. D.N. Patel, A.P.P. for Petitioner-State.

MR UTPAL M PANCHAL for Respondent No. 1, 2

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 20/06/2000

ORAL JUDGEMENT

Heard learned A.P.P. Mr. D.N. Patel for the petitioner-State. and learned Advocate Mr. U.M. Panchal for the respondents.

1. The petitioner has challenged the order dated 14th June,2000 passed by the learned Additional Sessions Judge, Surat in the proceedings of Criminal Case registered vide CR No.I/38/2000 at Ichapor Police Station for the offences made punishable under Secs.363, 366, and

376 read with Sec.114 of the Indian Penal Code and Secs.3 (1) (12) as well as Sec.3(2)(5) of the Atrocities Act.

2. The respondents herein are the accused nos.2 and 3 of the said case and appeared before the learned Addl. Sessions Judge, Surat on apprehension that they were likely to be arrested by the police in connection with the above referred to crime. The learned Addl. Sessions Judge directed both the accused to be taken into custody and sent them to judicial custody. Thereafter, the Investigating Officer gave application Exh.15 and urged before the Court that on account of order of Court sending the accused nos.2 and 3 in judicial custody, the Investigating Officer is deprived of the police custody which has hampered investigation of the said crime, and thereby, order of sending the accused nos.2 and 3 of the said crime to police custody be recalled and the accused nos.2 and 3 be given in remand custody to the police for the period of five days. Learned Additional Sessions Judge heard the said application and rejected the same vide order dated 4-6-2000. Learned A.P.P. Mr. D.N.Patel has taken me through the impugned order which suggests that the learned Additional Sessions Judge has rejected the application disbelieving the ground on which the remand is claimed by the police. It is pertinent to note that on registration of crime by the police it is one of the important power of the police to take suspect -accused into custody and if the investigation is not over within the stipulated period to produce the suspect before the Competent Court and claim remand custody for further investigation. In the instant case, it appears that despite the fact of pointing out to the learned Addl. Sessions Judge that police custody of the accused nos.2 and 3 are necessary for investigation of the said crime, the accused nos.2 and 3 having appeared, the learned Addl. Sessions Judge has directly sent them to judicial custody not only that but has also rejected the remand application vide impugned order. The said order being patently in violation of the provisions of law requires to be quashed and set aside.

3. The impugned order dated 14-6-2000 passed by the learned Addl. Sessions Judge, Surat in the matter of Crime Register No.I/38/2000 registered at Ichapor Police Station is hereby quashed and set aside. The accused nos.2 and 3 (the present respondents nos.1 and 2) are ordered to be given in remand custody to the Investigating Officer of the said crime for a period of one day only, and thereafter, again be produced before the learned Addl. Sessions Judge, Surat on completion of the remand period. Learned Addl. Sessions Judge

thereafter may pass appropriate order in accordance with law. Rule to that extent is made absolute.

(A.K.Trivedi,J.)

Note: In the facts and circumstances of the case, Direct service is also permitted to learned Advocate for the respondents.

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